

1 UNITED STATES DISTRICT COURT

2 SOUTHERN DISTRICT OF NEW YORK

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4 ESTATE OF VALERIE YOUNG, by VIOLA
5 YOUNG, as Administratrix of the
6 Estate of Valerie Young, and in her
7 personal capacity, SIDNEY YOUNG,
8 and LORETTA YOUNG LEE,

9 Plaintiffs,

10 -against-

11 STATE OF NEW YORK OFFICE OF MENTAL
12 RETARDATION AND DEVELOPMENTAL
13 DISABILITIES, PETER USCHAKOW,
14 personally and in his official
15 capacity, JAN WILLIAMSON, personally
16 and in her official capacity, SURESH
17 ARYA, personally and in his
18 individual capacity, KATHLEEN
19 FERDINAND, personally and in her
20 official capacity, GLORIA HAYES,
21 personally and in her official
22 capacity, DR. MILOS, personally and
23 in his official capacity;

24 Defendants.

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19 350 Fifth Avenue
20 New York, New York

21 March 27, 2008
22 10:25 A.M.

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2 DEPOSITION of JOVAN MILOS, M.D., one
3 of the Defendants in the above-entitled
4 action, held at the above time and place,
5 taken before Gretchen A. Milton, a
6 Shorthand Reporter and Notary Public of
7 the State of New York, pursuant to the
8 Federal Rules of Civil Procedure, Notice
9 and stipulations between Counsel.

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15 APPEARANCES:

16 CATAFAGO LAW FIRM, P.C.
17 Attorneys for Plaintiffs
18 350 Fifth Avenue
18 New York, New York 10118

19 BY: JACQUES CATAFAGO, ESQ.

20

21 STATE OF NEW YORK
22 OFFICE OF THE ATTORNEY GENERAL
22 ANDREW M. CUOMO
23 Attorneys for Defendants
23 120 Broadway
23 New York, New York 10271-0332

24 BY: JOSE L. VELEZ, ESQ.

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2 APPEARANCES:
(Continued)

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4 STATE OF NEW YORK
5 OFFICE OF MENTAL RETARDATION AND
6 DEVELOPMENTAL DISABILITIES
7 Attorneys for Defendants
75 Morton Street
New York, New York 10014

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9 BY: PATRICIA DELORY PAWLOWSKI, ESQ.

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1 JOVAN MILOS, M.D.

2 specialist different than those of medical
3 doctors?

4 A. They are no different.

5 Q. With regard to the BDC residents
6 under your care, those 55 to 70 residents,
7 are you familiar with a patient by the
8 name of Valerie Young?

9 A. Yes, I am familiar.

10 Q. When did you first see Valerie
11 Young?

12 A. I think it was around
13 January 2002.

14 Q. Is it correct that she was one of
15 the 55 to 70 residents at BDC under your
16 care as a medical specialist?

17 A. Yes.

18 Q. Was there anyone --

19 MR. CATAFAGO: Withdrawn.

20 Q. During the time that Valerie
21 Young was under your care, did you report
22 to anyone at BDC?

23 A. I don't understand the question.

24 Q. With regard to the medical
25 services and care you provided for Valerie

1 JOVAN MILOS, M.D.

2 Young, did you have someone you reported
3 to?

4 A. Administration.

5 Q. Who in the administration?

6 A. I mean we did have a medical
7 director. There was no medical specialist
8 on a higher position then me. But the
9 report -- I mean -- I report -- I reported
10 to the deputy director and the director as
11 needed.

12 Q. Is that Peter Uschakow and Suresh
13 Arya?

14 A. Yes.

15 Q. And how often would you report to
16 them with regard to the medical care that
17 you provided to Valerie Young?

18 A. Only as needed.

19 Q. Who makes the determination as to
20 whether it was needed, to report to your
21 superiors?

22 A. Actually I didn't, I have no need
23 to report.

24 Q. Is it correct that, from
25 January 2002 until her death in 2005, you

1 JOVAN MILOS, M.D.
2 never reported to any of your superiors
3 about your medical care of Valerie Young?

4 MR. VELEZ: Objection. That's
5 not his testimony.

6 You can answer.

7 Q. You can answer the question.

8 A. I would report to the team.

9 Q. You would report to the team?

10 A. Yes.

11 Q. Who was the team?

12 A. The team was the medical
13 specialist and other specialists that were
14 involved in the care of Valerie Young.

15 Q. You testified that there were
16 other medical specialists at BDC at the
17 same time as you?

18 A. Yes.

19 Q. Did they also get involved in the
20 medical care of Valerie Young at the same
21 time you did?

22 A. Yes.

23 Q. What are their names, if you
24 know?

25 A. Yes. It was the psychiatrist.

1 JOVAN MILOS, M.D.

2 Q. With regard to the third
3 recommendation, the potential side
4 effects, behavioral status, to be
5 monitored closely if medication changes
6 are made, what was your understanding as
7 to the potential side effects which are
8 being referenced there?

9 A. I would say it was for the
10 complete medication regimen at the time.

11 Q. You can't just say "the complete
12 medication regimen at the time." I need
13 to know what other medications she was
14 getting at that time.

15 What about the psychotropic
16 medications that are discussed on the
17 second page of Exhibit 1?

18 A. It says: Reduce Trilofam,
19 T-R-I-L-O-F-A-M, from 32 milligrams to 24
20 milligrams daily.

21 Q. The side effects of Trilofam are
22 falling and steadiness and dizziness;
23 right?

24 MR. VELEZ: Objection.

25 Q. Is that correct, sir?

1 JOVAN MILOS, M.D.

2 MR. VELEZ: Objection to the
3 form. Is there any foundation for
4 that?

5 MR. CATAFAGO: Yes. I am asking
6 whether that's the case.

7 Q. It says right there that
8 falling/unsteadiness can be a side effect.

9 Did you agree with that in this
10 document that you signed?

11 A. Yes.

12 Q. Were there side effects that you
13 are aware of -- just looking at the
14 document -- with regard to the medications
15 that are set forth here? What about the
16 Ambien?

17 A. I don't understand the question.

18 Q. Is there anything else that you
19 were concerned about?

20 A. At that moment, no.

21 MR. CATAFAGO: This is
22 Plaintiff's Exhibit 2. It's Bates
23 stamped Young7695 through 7701.

24 (The document entitled,
25 "Individual Progress Plan Review

1 JOVAN MILOS, M.D.

2 was weekend or... and I was not there on a
3 Sunday.

4 Q. If you would look at the report
5 now marked as Exhibit 10, Bates No. CQC40,
6 you have the date of death as June 19,
7 2005, and the time as 9:32 p.m.

8 A. Yes.

9 Q. Did you learn about it that
10 evening or the next morning?

11 A. The next morning.

12 Q. Who specifically told you that
13 she had died?

14 A. I don't know. My routine is to
15 go first to my office, leave the things
16 that I brought with me, go to the nursing
17 station, go to the logbook, see what
18 happened last night. And this is a very
19 significant event, so as soon as I
20 entered, I know what happened; that this
21 is what happened. This has happened.

22 And who actually told me, with
23 whom I have that conversation, I don't
24 recall at this moment.

25 Q. Did you speak to anyone about

1 JOVAN MILOS, M.D.

2 Q. How big is that book in
3 connection with Valerie Young?

4 A. It's mostly the dates for that
5 last one, one and a half years.

6 Q. Is there one DVP book for each
7 consumer?

8 A. Each consumer has a separate
9 book.

10 MR. CATAFAGO: I don't know if
11 that was produced.

12 MR. VELEZ: He was referring to
13 the medical records, at least as I
14 understand it, when he testified
15 earlier today as to where progress
16 notes are kept, the medical records.
17 He said there was a DVP, and I don't
18 know what that stands for, but it
19 basically is where the records are
20 kept.

21 MR. CATAFAGO: You have produced
22 that?

23 MR. PAWLOWSKI: That's all this.

24 Q. With regard to the documents that
25 you reviewed, did you make a list in order

1 JOVAN MILOS, M.D.

2 A. That's the major ones.

3 Q. What about the next medication
4 that was prescribed to the decedent as of
5 the time of her death?

6 A. Klonopin is an anxiolytic to
7 release anxiety. It's an antianxiety
8 medication. Half milligram at bedtime.
9 It's pretty much a low dose. It's also to
10 help with sleep.

11 Q. What side effects, if any, are
12 you aware of in connection with that
13 medication?

14 A. Sedation.

15 Q. Anything else?

16 A. A potential for low blood
17 pressure.

18 Q. Is that all?

19 A. There are others.

20 Q. What else are you aware of?

21 MR. VELEZ: If you know.

22 A. Mostly concerning sedation.

23 Q. Were you aware or concerned with
24 any other side effects with respect to
25 that medication --

1 JOVAN MILOS, M.D.

2 A. That has the potential for
3 addiction.

4 Q. Anything else?

5 A. These are the main ones.

6 Q. Anything else?

7 A. No.

8 Q. What about the next medication
9 that was prescribed to the decedent at the
10 time of her death, what's that?

11 A. Remeron.

12 Q. What is that prescribed for?

13 A. It's an antidepressant. But also
14 it has sedating qualities, and that's the
15 reason it was given at bedtime. Also to
16 help with sleep.

17 Q. What side effects were you aware
18 of and concerned in connection with that
19 medication?

20 A. Sedation, low blood pressure...
21 those are the major ones.

22 Q. Anything else?

23 A. There are a number of others.

24 Q. Can you identify them for the
25 record, the side effects you were aware

1 JOVAN MILOS, M.D.

2 evaluate for splinting.

3 Q. What happened after you gave this
4 referral?

5 A. Valerie Young was seen by the
6 physical therapy department. They did the
7 evaluation and enclosed recommendations.

8 Q. What were the recommendations?

9 A. That Ms. Young be scheduled for
10 physical therapy two times per week, to
11 receive mat exercises, ambulation
12 exercise, range of motion exercises to
13 both upper and lower extremities.

14 Ms. Young will be scheduled to
15 see orthopedist on his next visit to BDC
16 for evaluation of left foot orthosis
17 follow-up.

18 Q. About six weeks before she passed
19 away, as noted in the report, the physical
20 therapist scheduled Ms. Young for physical
21 therapy treatments twice a week?

22 A. Yes.

23 Q. Do you know if that occurred?

24 A. There is no reason to believe it
25 did not occur.

1 JOVAN MILOS, M.D.

2 Q. Do you know if it occurred?

3 A. I was not physically present when
4 they did it.

5 Q. Did anyone tell you that it was
6 done?

7 A. I don't recall that.

8 Q. Do you know who would have been
9 in charge of providing that physical
10 therapy treatment that you prescribed for
11 Valerie Young twice a week?

12 A. Physical therapy.

13 Q. Do you know the name of the
14 physical therapist, or that individual, or
15 those individuals, as of May 2, 2005 until
16 Ms. Young passed away on June 19, 2005?

17 A. I do not know which physical
18 therapist was assigned to her.

19 Q. Do you know if anyone was
20 assigned?

21 A. Somebody was assigned.

22 Q. But you don't know the person's
23 name?

24 A. No.

25 Q. When was the last time you saw

1 JOVAN MILOS, M.D.

2 not my job to go there --

3 Q. Did you speak to anyone about her
4 need for physical therapy at any time
5 after May 2, 2005?

6 A. I sent the request for physical
7 therapy. I sent the request for physical
8 therapy on --

9 Q. Please listen to the question.

10 A. -- on April 27, 2005.

11 Q. My question is: After May 2,
12 2005, when the report came in scheduling
13 her for physical therapy twice a week, did
14 you speak to anyone about her need for
15 physical therapy?

16 A. I don't recall that.

17 Q. Did you ever observe her
18 receiving physical therapy?

19 A. Again, it's done in the physical
20 therapy department. I don't go there. I
21 go not often there. Maybe a few times a
22 year.

23 Q. Is the answer no?

24 A. The answer is no. I have no
25 reason to doubt --

1 JOVAN MILOS, M.D.

2 Q. I'm not asking for what you have
3 reason to doubt. I am asking for what you
4 observed and what you spoke about.

5 MR. CATAFAGO: Let's have a
6 document dated July 26, 2005, Bates
7 stamped Young0111-Young0113, marked as
8 Exhibit 12.

9 (The document entitled,
10 "Mortality Review - Valerie Young,"
11 dated 7/26/05, Bates
12 No. Young0011-0113 was hereby marked
13 as Plaintiff's Exhibit 12 for
14 identification, as of this date.)

15 A. I'm aware of this document.

16 Q. Did you attend a mortality review
17 or meeting in which this document as
18 prepared?

19 A. Yes.

20 Q. Was it prepared at the meeting
21 or --

22 A. Subsequent.

23 Q. -- to the meeting?

24 Which one of you prepared the
25 actual document?

1 JOVAN MILOS, M.D.

2 at the meeting?

3 A. Most likely.

4 Q. Were notes taken by anyone?

5 A. I don't know.

6 Q. Was the meeting video-taped or
7 tape-recorded?

8 A. No.

9 Q. Did you take notes?

10 A. No.

11 MR. CATAFAGO: Counsel, with
12 respect to anybody who took notes at
13 this meeting who was present at the
14 meeting at their facility, is that all
15 part of production?

16 MR. VELEZ: I will say again that
17 we have produced all documents related
18 to this case.

19 MR. CATAFAGO: Off the record.

20 (Discussion held off the record.)

21 Q. Did you believe, after you
22 learned that Valerie Young had passed
23 away, that physical therapy twice a week
24 was sufficient for her needs?

25 A. Yes.